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December 5, 2019

VIA ECF

Hon. Lois H. Goodman, U.S.M.J.
Clarkson S. Fisher Building
& U.S. Courthouse
402 East State Street, Room 2020
Trenton, NJ 08608

Re: 1940 Route 9 LLC v. Township of Toms River,
Case No.: 3:18-cv-08008-PGS-LHG

Your Honor:

Counsel for Plaintiff in the above-captioned action submits this letter regarding discovery issues in accordance with the Court's Order of June 28, 2019 (Dkt. #21). Plaintiff attempted to obtain a joint letter with Defendant's input per the court's instructions on two separate occasions, but Defendant failed to respond to Plaintiff's requests for input on both occasions.

PLAINTIFF'S POSITION

Plaintiff's counsel seeks permission to file a motion to compel for Responses to Interrogatories, Responses to Requests for Production of Documents ("RPDs") and all documents responsive to Plaintiff's RPDs. Despite repeated requests from Plaintiff's counsel, Defendant has not provided any written discovery responses and has provided only a handful of documents to date.

The chronology of events is as follows:

- On July 12, 2019, Plaintiff served Interrogatories and RPDs upon Defendant.

- On July 15, 2019, Defendant served its discovery requests upon Plaintiff.
- On August 5, 2019, Plaintiff sent Defendant a proposed Electronically Stored Information (“ESI”) order and proposed custodians and search terms.
- On August 12, 2019, the parties agreed to a two-week extension of the deadline to respond to discovery requests, agreeing to provide discovery responses on August 26, 2018.
- On August 26, 2019, Plaintiff served its responses to interrogatories and RPDs.
- To date, Plaintiff has received no written discovery responses from Defendant.
- After multiple requests for Defendant’s edits to the proposed ESI Order and consent to file, the proposed ESI Order was filed on September 23, 2019.
- On September 19, 2019, this Court ordered Defendant to produce responsive documents and discovery responses no later than September 27, 2019.
- On September 27, 2019, Plaintiff produced its first document production to Defendant.
- On September 27, 2019, Defendant notified Plaintiff that they anticipate having discovery responses by the following week.
- Defendant did not serve its discovery responses the following week.
- Plaintiff followed up with Defendant on October 17, 2017 about outstanding discovery.
- On October 25, 2019, counsel for Plaintiff and Defendant conferred about the outstanding discovery. At that time, Mr. Mankoff represented that Defendant will provide all outstanding discovery to Plaintiff “next week.”
- Defendant did not provide any discovery the following week.
- On November 1, 2019, Plaintiff’s counsel emailed a version of this letter requesting the Court’s permission to file a motion to compel to Defendant’s counsel, asking for Defendant’s contribution to the joint letter. Defendant did not respond.
- On November 8, 2019, Defendant provided its “first production of documents” which included only 13 documents and no ESI. Defendant did not produce any interrogatory responses or responses to Plaintiff’s RPDs.
- On December 2, 2019, Plaintiff’s counsel sent Defendant’s counsel a copy of this letter for Defendant to add its position. Shortly thereafter, Defendant’s counsel emailed Plaintiff’s counsel that it will be done by Wednesday. Plaintiff did not receive anything from Defendant on Wednesday, December 4, 2019, and Defendant did not contribute to a joint letter.

To date, Plaintiff has not received the vast majority of the documents requested, or any written discovery responses from Defendant. As a result, Plaintiff is unable to move forward with discovery or to schedule depositions.¹

Plaintiff respectfully requests permission to file its motion to compel discovery.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robin Pick".

Robin Pick, Esq.
Counsel for Plaintiff

¹ The Parties requested a ninety (90) day extension for the remaining deadlines listed in the Court's Pretrial Scheduling Order on November 22, 2019.